
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARLON ALONZO SMITH,

Defendant.

**MEMORANDUM DECISION
AND ORDER DISMISSING
MOTION TO COMPEL**

Case No. 2:16-cr-00020-DN

District Judge David Nuffer

Defendant seeks an order compelling the Utah Highway Patrol (“UHP”) and Utah Department of Public Safety to produce certain documents relating to UHP canine Marco (“Motion”).¹ However, final judgment² has entered in this case and the Tenth Circuit Court of Appeals has affirmed Defendant’s conviction and sentence.³

“After entry of final judgment, a district court has jurisdiction only to the extent permitted by statute or rule.”⁴ The district court’s original jurisdiction under [18 U.S.C. § 3231](#) does not confer “jurisdiction over all post-conviction motions.”⁵ Defendant asserts that the documents he seeks with his Motion are intended to support a separate motion for relief from his conviction and sentence under Rule 60(b)(4) and 60(b)(6).⁶ But Defendant cites no legal authority that would confer jurisdiction over his Motion. And, regardless, his motion for relief

¹ Subpoena Motion to Compel (“Motion”), [docket no. 298](#), filed Dec. 23, 2024.

² Judgment in a Criminal Case, [docket no. 181](#), filed Oct. 2, 2018.

³ Order and Judgment, [docket no. 200](#), filed Feb. 25, 2020.

⁴ *United States v. James*, 728 Fed. App’x 818, 822 (10th Cir. 2018).

⁵ *Id.*

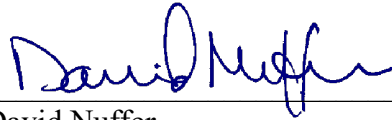
⁶ Motion at 3.

under Rule 60(b) was dismissed without prejudice as an unauthorized second-or-successive motion under 28 U.S.C. § 2255.⁷ Therefore,

IT IS HEREBY ORDERED that Defendant's Motion⁸ is DISMISSED for lack of jurisdiction.

Signed January 8, 2025.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

⁷ Memorandum Decision and Order Dismissing Without Prejudice Motion for Relief from Judgment, [docket no. 299](#), filed Jan. 8, 2025.

⁸ [Docket no. 298](#), filed Dec. 23, 2024.